

Senate Bill No. 180

CHAPTER 691

An act to amend Section 114145 of, and to add Sections 113831, 113946, and 113947 to, the Health and Safety Code, relating to environmental health.

[Approved by Governor September 25, 2000. Filed
with Secretary of State September 27, 2000.]

LEGISLATIVE COUNSEL'S DIGEST

SB 180, Sher. Retail food facilities inspection information.

Existing law, the California Uniform Retail Food Facilities Law, provides for the regulation of health and sanitation standards for retail food facilities by the State Department of Health Services. Violation of any of these provisions is a crime.

This bill would require the State Department of Health Services, in consultation with local environmental health officers, representatives of the retail food industry, and other interested parties, on or before January 1, 2002, to establish standardized procedures for local health agencies to report information regarding each food facility inspection, reinspection, date of last inspection, period of any closure, and the facility name and address. It would require the department, within 60 days after it has established the standardized procedures, to publish these procedures.

This bill would also require the department, on or before January 1, 2002, to establish a standardized food facility inspection format.

This bill would require each local health agency that reports food facility information on an Internet web site, commencing July 1, 2002, to provide food facility inspection information in accordance with these procedures. Furthermore, since a violation of the provisions applicable to retail food facilities is a crime, this bill would impose a state-mandated local program.

Existing law requires each food establishment, except produce stands and swap meet prepackaged food stands, to be fully enclosed, in a building meeting specified criteria. Existing law excludes dining areas or open-air barbecue facilities, and outdoor displays that meet specified requirements.

This bill would additionally exclude outdoor beverage bars, as defined, contiguous with a fully enclosed food establishment, as defined, under the constant and complete control of the operator of the food establishment from the above enclosure requirements.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state.

Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

The people of the State of California do enact as follows:

SECTION 1. The Legislature hereby finds and declares all of the following:

(a) Food facility inspection information is currently developed by each local health agency. The form, scope, and content of food facility inspection information varies from agency to agency. These various methods of reporting food facility inspection information can be confusing to food facility owners, public agencies, and the public.

(b) In the event that food facility inspection information is made available in a standardized format, it will be easier for local health agencies to compare and evaluate inspection information, and the State Department of Health Services will be better able to evaluate local health agency inspection programs.

(c) The purposes of the California Uniform Retail Food Facilities Act will be advanced through standardized retail food facility inspection training, increased department oversight of local inspection programs, continuing review of the act and the federal model, and adequate funding of the department's oversight activities.

(d) Standardization of food facility inspection formats and reporting procedures should further reduce any existing confusion between jurisdictions, and contribute to increased compliance by food facility operators and thereby decrease the risk of food-borne illnesses.

SEC. 2. Section 113831 is added to the Health and Safety Code, to read:

113831. "Outdoor beverage bar" means an unenclosed facility operated on the same premises as, or in conjunction with, a fully enclosed food establishment where any alcoholic and nonalcoholic beverages are prepared out of doors.

SEC. 3. Section 113946 is added to the Health and Safety Code, to read:

113946. (a) On or before January 1, 2002, the department shall establish, and each local health agency shall utilize, a standardized, food facility inspection format for food facility inspections that includes all of the following:

(1) The name and address of the food facility.

(2) Identification of the following inspection criteria, which shall be the basis of the inspection report:

(A) Improper holding temperatures.

(B) Inadequate cooking.

- (C) Poor personal hygiene of food handlers.
- (D) Contaminated equipment.
- (E) Food from unsafe sources.

(3) For each violation identified pursuant to paragraph (2), classification of the violation as a “minor violation” or “major violation.” Major violations are those violations that pose an imminent risk to public health and warrant immediate closure of the food establishment or immediate correction. Minor violations are those that do not pose an imminent public health risk, but do warrant correction.

(b) A local health agency may modify the format to add criteria to the criteria specified pursuant to paragraph (2) of subdivision (a), provided both of the following conditions are met:

(1) The additional criteria are based on other provisions of this part.

(2) A violation is identified by reference to items and sections of this part, or the regulations adopted pursuant to this part relating to those items, if a food facility is cited for a violation of the additional criteria.

(c) A copy of the most recent inspection report shall be maintained at the food facility. The food facility shall post a notice advising patrons that a copy of the most recent inspection report is available for review by interested parties.

(d) The department and local health agencies shall conduct routine training on food facility inspection standardization to promote the uniform application of inspection procedures.

(e) This section shall not restrict the ability of a local health agency to inspect and report on matters other than matters subject to regulation under this chapter.

SEC. 4. Section 113947 is added to the Health and Safety Code, to read:

113947. (a) On or before January 1, 2002, the department, in consultation with local environmental health officers, representatives of the retail food industry, and other interested parties, shall establish standardized procedures for local health agencies to report the following food facility inspection information regarding each food facility:

- (1) Name and address.
- (2) Date of last inspection.
- (3) Identification of any major violation identified in a food facility inspection.
- (4) Reinspection date, if applicable.
- (5) Period of closure, if applicable.

(b) The department, in consultation with local environmental health officers, representatives of the retail food industry, and other interested parties, may periodically review and revise the standardized procedures established pursuant to subdivision (a). In

making any revisions, the department shall strive to ensure that the required information can be reported and made available in the most efficient, timely, and cost-effective manner.

(c) (1) The standardized procedures established pursuant to this section shall include a standardized electronic format and protocol for reporting the food facility inspection data in a timely manner, and shall strive to ensure that the information is readily accessible, can be rapidly reported, and, if necessary, corrected, for each food facility that has been inspected or reinspected. If the local health agency determines that reported information is materially in error, that error shall be corrected within 48 hours after that determination.

(2) The department may also establish standardized procedures for reporting the information on magnetic media, including, but not limited to, floppy disks or magnetic tape.

(d) Within 60 days after the department has established the standardized procedures pursuant to this section, the department shall publish these procedures.

(e) (1) Commencing July 1, 2002, each local health agency that reports food facility inspection information on an Internet web site shall report the information in accordance with the standardized procedures established pursuant to this section.

(2) This section shall not restrict the ability of a local health agency to report on matters other than matters subject to regulation under this chapter.

(f) The department may establish a link to each Internet web site utilized by any local health agency containing the food facility inspection information pursuant to subdivision (e).

SEC. 5. Section 114145 of the Health and Safety Code is amended to read:

114145. (a) Each food establishment, except produce stands and swap meet prepackaged food stands, shall be fully enclosed in a building consisting of floors, walls, and an overhead structure that meet the minimum standards prescribed by this chapter. Food establishments that are not fully enclosed on all sides and that are in operation on January 1, 1985, shall not be required to meet the requirement for a fully enclosed structure pursuant to this section.

(b) This section shall not be construed to require the enclosure of any of the following:

(1) Dining areas.

(2) Open-air barbecue facilities.

(3) Outdoor wood-burning ovens that meet all of the food preparation and safety requirements applicable to open-air barbecue facilities.

(4) Outdoor beverage bars contiguous with a fully enclosed food establishment under the constant and complete control of the operator of the food establishment, provided that the following requirements are met:



(A) The food establishment is a bona fide public eating place, as defined by Sections 23038, 23038.1, and 23038.2 of the Business and Professions Code.

(B) The operator of the food establishment is a licensee, as defined by Section 23009 of the Business and Professions Code, performing under authority of a license issued pursuant to the Alcoholic Beverage Control Act (Division 9 (commencing with Section 23000), Business and Professions Code) for the outdoor beverage bar.

(c) The outdoor beverage bar is, at all times, operated pursuant to the requirements of this chapter, including, without limitation, Sections 114010 and 114080, and any conditions imposed by the local health agency to ensure compliance with the requirements of this chapter.

(5) Outdoor displays that meet all of the following requirements:

(A) Only prepackaged nonpotentially hazardous food, uncut produce, or both is displayed or sold in the outdoor displays.

(B) Outdoor displays are contiguous with a fully enclosed food establishment that is in compliance with subdivision (a).

(C) Outdoor displays have overhead protection that extends over all food items.

(D) Food items from the outdoor display are stored inside a fully enclosed food establishment that is in compliance with subdivision (a) at all times other than during business hours. Any food items to be stored pursuant to this subdivision shall be stored in accordance with subdivision (a) of Section 114080.

(E) Outdoor displays comply with Section 114010 and have been approved by the enforcement agency.

(F) Outdoor displays are under the constant and complete control of the operator of the permitted food establishment.

(d) This section shall not be construed to require the enclosure during operating hours of customer self-service nonpotentially hazardous bulk beverage dispensing operations that meet the following requirements:

(1) The dispensing operations are installed contiguous with a fully enclosed food establishment that is in compliance with subdivision (a) and operated by the food establishment.

(2) The beverages are dispensed from enclosed equipment that precludes exposure of the beverages until they are dispensed at the nozzles.

(3) Ice is dispensed only from an ice maker-dispenser. Ice is not scooped or manually loaded into an ice dispenser out-of-doors.

(4) Single-service utensils are protected from contamination and are individually wrapped or dispensed from approved sanitary dispensers.

(5) The dispensing operations have overhead protection that fully extends over all equipment associated with the facility.



(6) During nonoperating hours, the dispensing operations are fully enclosed so as to be protected from contamination by vermin and exposure to the elements.

(7) The owner or operator of the food establishment demonstrates to the enforcement agency that acceptable methods are in place to properly clean and sanitize the beverage dispensing equipment.

(8) Beverage dispensing operations are in compliance with Section 114010 and have been approved by the enforcement agency.

(9) Beverage dispensing operations are under the constant and complete control of the permitholder of the food establishments who is operating the dispensing facility.

(d) This section shall not be construed to allow outdoor displays in violation of local ordinances.

SEC. 6. (a) No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution for certain costs that may be incurred by a local agency or school district because in that regard this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

(b) No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because a local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by certain other provisions of this act, within the meaning of Section 17556 of the Government Code.

